



REPUBLIC OF THE PHILIPPINES
Department of Budget and Management
Malacañang, Manila

GOVERNMENT PROCUREMENT POLICY BOARD
Technical Support Office

TSO NPM No. 01-2003

March 7, 2003

DIR. NILO B. BUOT
Regional Director, Regional Office VI
Department of Budget and Management
251-A Gen. Hughes St., Iloilo City,
P.O. Box No. 45, 5000 Iloilo City

**RE : Applicable Law for Current Procurements Prior to
Issuance of the IRR of R.A. 9184**

Dear Dir. Buot:

This refers to your letter dated February 18, 2003, which was referred to our office on February 27, 2003, referring the concern of BAC Chairman Diosdado S. Magbanua of the Department of Agriculture Regional Field Unit 6 ("DA RFU6") regarding the conduct of procurement pending the approval of the Implementing Rules and Regulations ("IRR") of Republic Act No. 9184, otherwise known as the Government Procurement Reform Act ("GPR"). In your letter, we determined a single issue that needs to be resolved, to wit:

Whether or not government agencies may utilize R.A. 9184 in the conduct of its procurement.

Effectivity and Implementation of R.A. 9184

The GPR was signed by President Gloria Macapagal Arroyo on **January 10, 2003**, the same was published the following day or on **January 11, 2003**, in two newspapers of general circulation, namely, Manila Times and Malaya. The GPR took effect on **January 26, 2003** pursuant to Section 78 thereof, which we quote:

Sec. 78. *Effectivity Clause* - This Act shall take effect fifteen (15) days following its publication in the Official Gazette or in two (2) newspapers of general circulation.

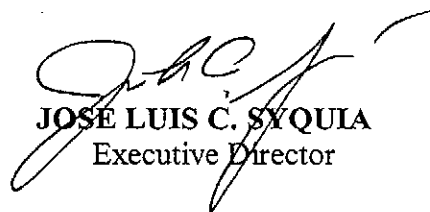
It must be noted, however, that although there are self-executing provisions in the GPRA, the same cannot be fully implemented unless and until the IRR therefor has been finally approved by the President and published in accordance with the GPRA. For this reason, we believe that the procedures embodied in Executive Order No. 40, series of 2001 ("E.O. 40"), and its IRR shall still apply until the IRR of the GPRA is finally approved. Pending such approval, it is our opinion that DA RFU6 may still utilize the procedures embodied in E.O. 40 and its IRR in the conduct of its ongoing procurement projects, provided that they do not directly conflict with the clear and expressed provisions of the GPRA.

Applicability of E.O. 40

Considering that the IRR of the GPRA has not yet been approved, it may not yet be fully implemented. For this reason, we believe that the procedures embodied in E.O. 40 and its IRR shall still apply in the procurement being conducted by government agencies until the IRR of the GPRA has been finally approved. Thus, pending the approval of the IRR of the GPRA, DA RFU6 may still apply the procedures embodied in E.O. 40 and its IRR in the conduct of its procurement, provided that they are not in direct conflict with the clear and expressed provisions of the GPRA.

We trust that this clarifies matters.

Very truly yours,


JOSE LUIS C. SYQUIA
Executive Director